

Aircraft Use Tax liability is incurred on aircraft acquired by gift, transfer, or non-retail purchase after June 30, 2003. See 86 Ill. Adm. Code 152.101. (This is a GIL.)

October 22, 2007

Dear Xxxxx:

This letter is in response to your letter dated March 6, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Please be advised that I represent a resident of Illinois who is currently the owner of an airplane titled in his name alone. I have prepared a Self Declaration of Trust for that client and he wishes to transfer title from himself individually to himself as Trustee. The IRS does not recognize this transaction as a transfer as the Trust will retain the social security number of my client as a tax identification number. I also deeded my client's home into the Trust and did not have to pay a transfer tax as there was no consideration for the transfer and in effect, no transfer of any interest was made except from my client to himself.

I am writing as to whether or not the transfer of his aircraft would be considered a taxable transfer under 35 ILCS 158/15-1 to 158/99-99 inclusive.

Since this transfer is exempt for all other Illinois tax purposes, I do not believe that the Illinois Department of Revenue to be consistent, would tax the transfer of the aircraft. However, I am writing to be extra careful, as the tax can be significant.

I appreciate your prompt reply, and if you have any questions please contact the undersigned.

DEPARTMENT'S RESPONSE

For general information purposes, the transfer of an aircraft from an individual owner to a trust is a taxable event. This result is because the aircraft is being transferred from one legal entity to another (from a person to a trust). Aircraft Use Tax liability is incurred on aircraft acquired by gift, transfer, or non-retail purchase after June 30, 2003. See 86 Ill. Adm. Code 152.101. The fact that the beneficial ownership of the aircraft will not change after the transfer does not change the outcome under the Aircraft Use Tax Law.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk